

REMARKS/ARGUMENTS

Request for Continued Examination

Applicants file concurrently herewith a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. The instant paper is Applicants' required submission under 37 C.F.R. § 1.114 to accompany the RCE.

Amendments to the Specification

The specification has been amended at paragraph [040] to correct a typographical error in the second sentence. The recitation of "or" has been replaced with --of--. This amendment to the specification is purely formal in nature and does not introduce new matter.

Status of the Claims

Claims 2-10, 12-21, 24 and 25 are pending and stand rejected.

Applicants have amended claims 2, 3, 12, 13, 24, and 25 as suggested by the Examiner in the Office Action mailed February 20, 2008. In particular, Applicants have amended these claims to replace the indefinite article "a" with the definite article --the-- in the recitation "having a sequence as set forth in" As amended, these claims now recite, "having the sequence as set forth in" These amendments to the claims are fully supported by the original claims and specification and thus, do not introduce new matter.

Applicants have further amended claim 25 as suggested by the Examiner in the Office Action mailed February 20, 2008 to recite in part b): "an *AHAS3* reverse primer having the sequence as set forth in nucleotides 1 to 23 of SEQ ID NO:14" Support for this amendment can be found in the specification at paragraphs [023] and [039] as indicated in the Office Action.

No new matter has been added by way of amendment of the claims.

Reexamination and reconsideration of the application as amended are respectfully requested.

The Rejection of the Claims Under 35 U.S.C. § 112, First Paragraph, Should Be Withdrawn

Claim 25 has been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Claim 25 has been amended. This rejection is respectfully traversed.

The Office Action indicates that claim 25 requires a reverse primer having a sequence set forth in nucleotides 1 to 22 of SEQ ID NO:10 but the specification teaches SEQ ID NO: 10 as the reverse primer for *AHAS1* and SEQ ID NO: 14 as the reverse primer for *AHAS3*.

Applicants regret this typographical error and have amended claim 25 to recite that the *AHAS3* reverse primer has the sequence set forth in nucleotides 1 to 23 of SEQ ID NO: 14.

In view of the amendment of claim 25 and the above remarks, it is submitted that the rejection under 35 U.S.C. § 112, first paragraph, should be withdrawn.

The Rejection of the Claims Under 35 U.S.C. § 103(a) Should Be Withdrawn

Claims 2-10, 12-21, 24 and 25 are rejected under 35 U.S.C. § 103(a). Claims 2, 3, 12, 13, 24, and 25 have been amended. This rejection is respectfully traversed.

Claims 2-9 and 24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge *et al.* in view of Sathasivan *et al.* and Shi *et al.*

Claim 10 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge *et al.* in view of Sathasivan *et al.* and Shi *et al.* as applied to claims 1, 4-9, and 24, and further in view of Hattori *et al.*

Claims 12-20 and 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge *et al.* in view of Hattori *et al.* Li *et al.* and Shi *et al.*

Claim 21 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge *et al.* in view of Hattori *et al.* Li *et al.* and Shi *et al.* as applied to claims 11, 14-20, and 25, and further in view of Sathasivan *et al.*

Appl. No.: 10/695,546
Amdt. dated December 17, 2008
Reply to Office Action of February 20, 2008

Applicants respectfully disagree with the rejections of the claims under 35 U.S.C. § 103(a) because Applicants believe that the Examiner has not stated a *prima facie* case of obviousness against the claims. Without acquiescing to the position of the Office, Applicants have amended claims 2, 3, 12, 13, 24, and 25 to be directed to subject matter that the Examiner initially indicated as being free of the prior art in the Office Action mailed June 20, 2006. In particular, Applicants have amended these claims—as suggested by the Examiner in the Office Action mailed February 20, 2008—to be directed to *inter alia* the use of a primer having the sequence set forth SEQ ID NO:9, a primer having the sequence set forth in SEQ ID NO:10, a primer having the sequence set forth in SEQ ID NO:13, or a primer having the sequence set forth in SEQ ID NO:14. Applicants make these amendments in the interest of expediting the prosecution of the instant application and not to limit the scope of their claimed invention. Applicants expressly reserve the right to file one or more continuing applications or take such other appropriate measures deemed necessary to protect the subject matter that was omitted from the claims by the amendments made herein.

In view of the amendments and the above remarks, it is submitted that the rejection of the claims under 35 U.S.C. § 103(a) should be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicants submit that the rejections of the claims under 35 U.S.C. §§ 103 and 112 are overcome. Applicants respectfully submit that this application is now in condition for allowance. Early notice to this effect is solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

Appl. No.: 10/695,546
Amdt. dated December 17, 2008
Reply to Office Action of February 20, 2008

therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/david m. saravitz/

David M. Saravitz
Registration No. 55,593

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON December 17, 2008.